

REMARKS

This Request for Reconsideration is offered in response to the Office Action of March 29, 2002.

The Office Action rejects Claims 1, 2, 4-6, 12, 14 and 15 under 35 U.S.C. §102(b) as anticipated by the Spirg reference (U.S. Patent No. 4,459,046). The Spirg reference discloses a device with a layer of material 12 which changes color at a predetermined temperature and a colored annulus 14 which is printed in a color which is selected "according to a predetermined code ... to denote the temperature at which the spot 12 changes" (col. 2, lines 10-14). The specification of the Spirg reference further gives the example of using a gray annulus for a 60° C. indicator.

This is quite different from the present invention as claimed in Claim 1 which recites "a layer of material which substantially irreversibly changes from a first appearance to a second appearance in response to exposure to a threshold temperature" and wherein "a first portion of said layer of material is initially free from exposure to said threshold temperature" and "a second portion of said layer is initially exposed to said threshold temperature and thereby fused". These first and second portions result in respective first and second

appearances which "form a visible pattern". In particular, there is absolutely nothing in the Spirg reference which discloses or suggests that "a second portion of said layer is initially exposed to said threshold temperature and thereby fused" while a "a first portion ... is initially free from exposure to said threshold temperature". In the Spirg reference, it appears that the entire spot 12 is initially free of exposure to the threshold temperature, but there is absolutely nothing which indicates that either some portion of spot 12 is initially exposed to the threshold temperature or that annulus 14 is initially exposed to the threshold temperature. In this regard, the Applicant respectfully but vigorously traverses the statement in the Office Action, referring to the Spirg reference, "and wherein a second portion (14) of said layer of material is initially exposed to said threshold temperature and has said second appearance (see Column 3, lines 4-6)". However, when referring to Column 3, lines 4-6, one finds Claim 4 of the Spirg reference, to wit:

4. Apparatus as defined in claim 1, wherein said layer of printed material is colored to indicate the temperature of color change of said color-changing material.

This language appears to be based on nothing more than the

above-identified language in column 2, lines 10-14 of the Spirg reference where the annulus may be color coded as gray to indicate a 60° C. indicator. This says nothing about initially exposing the layer of "printed material" to the threshold temperature. This further says nothing about the spot and the indicator being formed of first and second portions of a layer of material.

Similarly, Claim 14 recites a first portion of the layer being "initially fusible to provide said first appearance, and further including a second portion of said material being fused to provide said second appearance". There is nothing in the Spirg reference to disclose or suggest separate "fusible" and "fused" portions of a layer of material.

It is therefore respectfully submitted that Claims 1, 2, 4-6, 12, 14 and 15 are patentable over the Spirg reference.

The Office Action further rejected Claims 1 and 11 under 35 U.S.C. §102(b) as being anticipated by the Arens reference (U.S. Patent No. 4,428,321).

The Arens reference discloses a uniform coating layer of transparent fusible material. Similar to the above discussion, there is nothing which states that a first portion of the layer of material is initially free from fusing and that a second

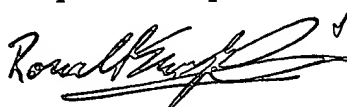
portion of the layer of material is initially fused.

It is therefore respectfully submitted that Claims 1 and 11 are patentable over the Arens reference.

The Office Action further rejected Claims 7-10 as obvious over the Spirg reference in view of the Haas reference (U.S. Patent No. 5,719,828). However, Claims 7-10 are ultimately dependent upon Claim 1. As stated above, Claim 1 is patentable over the Spirg reference, and the Haas reference does nothing to remedy the deficiencies of the Spirg reference with respect to the claimed invention.

In view of the above, each of the claims in this application is believed to be in immediately condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Gerald Levy", with a checkmark at the end of the signature.

Gerald Levy
Registration No. 24,419
Ronald E. Brown
Registration No. 32,200

Pitney, Hardin, Kipp & Szuch, L.L.P.
685 Third Avenue
New York, New York 10017
212-297-5800